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8 UNITED STATES DISTRICT COURT
9 FOR THE EASTERN DISTRICT OF CALIFORNIA
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11 JP Morgan Chase Bank N.A.,

12 Plaintiff,

13 v.

14 Mary Alice Nelson Rogers,

15 Defendant.
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No. 2:22-cv-01938-KJM-JDP

ORDER

17 On October 27, 2022, defendant Mary Alice Nelson Rogers, proceeding pro se, removed
18 this unlawful detainer action from the Sacramento County Superior Court. ECF No. 1. As
19 explained below, the court **remands** the case.

20 **I. LEGAL STANDARD**

21 When a case “of which the district courts of the United States have original jurisdiction” is
22 initially brought in state court, a defendant may remove it to federal court. 28 U.S.C. § 1441(a).
23 There are two primary bases for federal subject matter jurisdiction: (1) federal question
24 jurisdiction under 28 U.S.C. § 1331, and (2) diversity jurisdiction under 28 U.S.C. § 1332.

25 Under § 1331, district courts have federal question jurisdiction over “all civil actions
26 arising under the Constitution, laws, or treaties of the United States.” 28 U.S.C. § 1331. Under
27 the longstanding well-pleaded complaint rule, a suit “arises under” federal law “only when the
28 plaintiff’s statement of his own cause of action shows that it is based upon [federal law].”

1 *Louisville & Nashville R. Co. v. Mottley*, 211 U.S. 149, 152 (1908). Federal question jurisdiction
2 cannot rest upon an actual or anticipated defense or counterclaim. *Vaden v. Discover Bank*,
3 556 U.S. 49, 60 (2009).

4 Under § 1332, district courts have diversity-of-citizenship jurisdiction where the amount
5 in controversy exceeds \$75,000, and the parties are in complete diversity. 28 U.S.C. § 1332.
6 “Where it is not facially evident from the complaint that more than \$75,000 is in controversy, the
7 removing party must prove, by a preponderance of the evidence, that the amount in controversy
8 meets the jurisdictional threshold.” *Matheson v. Progressive Specialty Ins. Co.*,
9 319 F.3d 1089, 1090 (9th Cir. 2003) (per curiam).

10 A federal district court may remand a case sua sponte where a defendant has not
11 established federal jurisdiction. *See* 28 U.S.C. § 1447(c) (“If at any time before final judgment it
12 appears that the district court lacks subject matter jurisdiction, the case shall be remanded”);
13 *Enrich v. Touche Ross & Co.*, 846 F.2d 1190, 1195 (9th Cir. 1988) (citing *Wilson v. Republic*
14 *Iron & Steel Co.*, 257 U.S. 92, 97 (1921)).

15 **II. DISCUSSION**

16 Rogers’s notice of removal argues this court has both federal question and diversity
17 jurisdiction. However, the plaintiff’s complaint filed in state court asserts only a claim for
18 unlawful detainer of real property, which is a matter of state law. ECF No. 1 at 3–10. Plaintiff is
19 the master of the complaint and may, as here, “avoid federal jurisdiction by pleading solely state-
20 law claims.” *Valles v. Ivy Hill Corp.*, 410 F.3d 1071, 1075 (9th Cir. 2005). Because plaintiff’s
21 complaint does not show that it is based upon federal law, the court does not have federal
22 question jurisdiction over the action.

23 Neither does the court appear to have diversity jurisdiction. Plaintiff’s complaint seeks
24 possession of the premises and \$78.33 fees for the writ issuance. ECF No. 1 at 3. Because
25 Rogers has not provided any evidence to show that the amount in controversy likely totals more
26 than \$75,000, the court cannot exercise diversity jurisdiction over the action. *See generally id.*

1 **III. CONCLUSION**

2 For the foregoing reasons, the court has determined sua sponte that it appears to lack
3 subject matter jurisdiction, and thus **remands** the case to the Sacramento County Superior Court.
4 *Cf. Matheson*, 319 F.3d at 1090 (“Where doubt regarding the right to removal exists, a case
5 should be remanded to state court.”).

6 IT IS SO ORDERED.

7 DATED: November 14, 2022.

8 
CHIEF UNITED STATES DISTRICT JUDGE